

Health and Safety Executive Board		Paper No: HSE/09/05	
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Expected European Commission (EC) proposal to recast the Basic Safety Standards (96/29)(and other Euratom) Directives			

Purpose of the paper

1. To provide background on the EC proposal to recast this legislation and to ask the Board to agree a broad influencing approach, ahead of the preparation of a formal negotiating strategy for clearance across government once a draft text is available (probably in June 2009).

Background

2. Basic safety standards (BSS) for radiological protection are set out in a series of EU directives under the Euratom Treaty and in the Commission Recommendation 90/143/Euratom. The relevant domestic legislation around health and safety is:

- the Ionising Radiation Regulations 1999
- the Radiation (Emergency Preparedness and Public Information) Regulations 2001
- the general duties in sections 2-9 of the Health and Safety at Work etc Act 1974.

The EC, led by DG Transport and Energy, aspires to a “recast” of the EU BSS instruments into a single, consolidated directive. It has asked its scientific experts group (known as the Article 31 group) for proposals to deliver this. The group expects to report by the end of 2009. Thereafter, it will be for the EC to decide on, and publish, any formal proposal. More detail is at [Annex A](#).

3. The Article 31 working party is currently chaired by an HSE official expert. However, membership of this party is strictly in a personal capacity to provide expert input only. However, informal contact with the Article 31 working party has helped HSE to stay in touch with developments and formulate ideas on what the UK response should be.

Argument

4. Directives progressed under the Euratom Treaty afford fewer formal influencing opportunities than those in the social affairs field. For example, there is no role in Euratom directives for the Luxembourg Advisory Committee. However, the EC itself is still an avenue for influence, as is the Council, and the European Parliament must also be consulted before a proposal is adopted. Further detail is at [Annex B](#). Officials will, of course, maximise these opportunities for influence, wherever possible.

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6. OGDs (e.g. BERR) have interests in BSS and HSE has already convened a cross-Government group to co-ordinate the UK response. Following the HSE Board's consideration of the proposed influencing strategy, we will also build further our external stakeholder engagement to develop and support the UK negotiating position.

7. We will inform Lord McKenzie of the proposed influencing strategy and will then formally ask him and, the Cabinet Sub-Committee on Europe to endorse a negotiating strategy, once this has been developed and agreed by the Board.

Costs and Benefits

8. Whilst an initial Impact Assessment is being developed, it currently requires information from the stakeholders about the impacts on the sectors affected to make a sensible prediction of the costs of the recast BSS. However, for illustration, Annex C sets out the costs of the original BSS package (based on a UK impact assessment at the time), together with an estimate of those costs at 2007/2008 prices.

Paper clearance

9. The Senior Management Team cleared the paper on 7 January 2009.

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Annex A)

Euratom Directives, and one Recommendation, to be consolidated

1. Basic Safety Standards, Directive 96/29/Euratom = BSS
2. Medical Exposures, Directive 97/43/Euratom
3. Outside Workers, Directive 90/641/Euratom = OW
4. Control of high activity sealed radioactive sources and orphan sources
2003/122/Euratom = HASS
5. Public Information Directive 89/618/Euratom

Radon, Commission Recommendation 90/143/Euratom

Annex B)

Euratom Treaty 1957 & Article (A) 31 - Group of Experts

1. It is laid down in Article 31 of the 1957 Treaty establishing the European Atomic Energy Community (the "Euratom Treaty") that a Group of scientific experts shall be attached to the Commission and shall have advisory status.
2. The Treaty itself requires the Commission to consult the Group when revising and supplementing the basic standards for the protection of the health of workers and the general public against the dangers arising from ionising radiation (Articles 31 and 32 of the Euratom Treaty).
3. When putting forward proposals concerning the basic standards, the Commission convenes the Group so that it may formally obtain an expert opinion to enable it to guide its decisions and make the requisite choices. Such decisions are collectively given by the Group whose members, each being appointed on a personal basis, speak on their own behalf and act independently of all external influence.
4. The members of the Group are appointed for a term of five years, renewable, by the Scientific and Technical Committee set up in compliance with Article 134 of the Treaty.

Process of bringing forward the formal proposal

5. The Commission has termed the revision of this suite of Directives a 'recast'. This is one of four possible approaches to simplification of EU legislation. The others are codification, repeal or revision. Codification would simply consolidate the current Euratom Directives and their amendments, and one Recommendation, the aim being to make the law easier to follow for the legal community.
6. The aim of a recast is to remove ambiguity, add clarity, and generally make new European legislation more user friendly for Member States than existing legislation.

WP Recast adopting the following principles:

- Retain as much of the original text as possible;
- Maximise regulatory stability consistent with necessary/justified changes ;
- Improve clarity of requirements ;
- Retain flexibility for Member States (MS)'s to achieve compliance;
- Achieve greater harmony between International (IAEA) BSS and EC BSS;
and
- Take into account ICRP recommendations.

Annex C)

BSS Revision – Cost benefit Analysis 1993

	Initial Cost (£)	Recurring Costs (£)
Total	4.2 Million	12.1 – 12.5 Million
Total over ten years	3.5 Million	80 – 82 million

BSS Revision – 2008/9 Impact assessment costs (extrapolated from 1993 CBA figures)

	Initial Cost (£)	Recurring Costs (£)
Total	5.4 million	15.3- 15.9 million
Total over ten years	4.5 million	101.6 - 104.2 million